REMARKS

The Office Action mailed February 19, 2009, has been received and reviewed. Each of claims 1-6, 8-18, 20-30 and 32-37 stands rejected. Claims 1, 13 and 25 have been amended herein. Care has been exercised to introduce no new subject matter. Reconsideration of the above-identified application in view of the above amendments and the following remarks is respectfully requested.

Rejections based on 35 U.S.C. § 103

Title 35 U.S.C. § 103(a) declares that a patent shall not issue when "the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains." The Supreme Court in *Graham v. John Deere* counseled that an obviousness determination is made by identifying the scope and content of the prior art, the level of ordinary skill in the prior art, the differences between the claimed invention and prior art references, and secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1 (1966).

To support a finding of obviousness, the initial burden is on the Office to establish the clear articulation of the reason(s) why the claimed invention would have been obvious. *See* MPEP § 2142. The analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. *See* MPEP § 2143; *See also KSR v. Teleflex*, 127 S. Ct. 1727 (2007). In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. *See* MPEP § 2141.02(I).

To reach a proper determination of obviousness, the Examiner must step backward in time and into the shoes worn by the hypothetical "person of ordinary skill in the art" when the invention was unknown and just before it was made. In view of all factual information, the Examiner must then determine whether the claimed invention "as a whole" would have been obvious at that time to that person. Knowledge of applicant's disclosure must be put aside in reaching this determination. Impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art. *See* MPEP § 2142.

Claims 1-6, 8-18, 20-30 and 32-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeBettencourt et al. (U.S. Publication No. 2002/0042823, hereinafter "DeBettencourt") in view of Barth et al. (U.S. Publication No. 2006/0123012, hereinafter "Barth") and in further view of Takagi et al. (U.S. Patent No. 7,058,695, hereinafter "Takagi"). As the combination of DeBettencourt, Barth and Takagi fail to teach or suggest all limitations of the claims, either alone or in combination, Applicants respectfully traverse this rejection, as hereinafter set forth. As such, Applicants respectfully submit that DeBettencourt, Barth, and Takagi, either alone or in combination, fail to teach or suggest all recited features of claims 1-6, 8-18, 20-30 and 32-37.

Independent Claim 1

Independent claim 1, as amended herein, recites a system for monitoring a networked computer service for fault recovery. The networked computer service includes a set of features, wherein the set of features normally provide a plurality of panels of information for presentation on one or more web pages provided by the networked computer service to one or more users, each feature corresponding to one or more of the plurality of panels of information.

When a fault condition for one or more features is detected in network status data, the system automatically generates control commands to dynamically adjust the set of features based on the fault condition, wherein the fault condition comprises undesired performance degradation of one or more features. The set of features are dynamically adjusted by deactivating the one or more features having a fault condition while maintaining active features in the set of features to continue to provide a portion of the networked computer service, such that the one or more web pages include only active features. In other words, when a feature included in a set of features for a service experiences a fault condition, the feature is deactivated such that the remaining active features may continue to operate without degradation from the deactivated feature such that the service may be provided to an end user.

DeBettencourt fails to teach or suggest the dynamic adjustment of the set of features based on detection of a fault condition in the network status data. DeBettencourt states "[t]he manager can add or remove an application as part of a change in system configuration, or enable or disable an application for temporary adjustment." *DeBettencourt*, [0051]. While a manager does have control to add or delete applications from one or more web servers, the manager does not do so in response to a fault condition. In contrast, the claimed embodiment of the invention adds the limitation such that the invention generates control commands "to dynamically adjust the set of features *based on a fault condition*." *Specification*, Claim 1 (emphasis added). DeBettencourt is silent with respect to deactivating a feature based on a fault condition for the feature.

The Office acknowledges the shortcomings of DeBettencourt and attempts to rely on Barth. Applicants respectfully submit that even if Barth were combined with DeBettencourt, the resulting combination would still fail to teach or suggest all limitations of independent claim

1 as amended herein. In particular, Barth fails to teach or suggest dynamically adjusting a set of features by deactivating a feature having a fault condition to maintain active features to continue to provide a service wherein the fault condition comprises undesired performance degradation of one or more features. In contrast to the invention of claim 1, Barth merely discusses a dynamic information connection engine for searching information. *See, e.g., Barth*, Abstract. The portion of the reference cited by the Office Action discusses searching travel information and using a timer to determine when search results are considered valid. *See, e.g., id.*, ¶¶ [0112], [0113]. After the time period expires such that search results are considered no longer valid, the search results are deactivated. *Id.* Intentionally deactivating search results when search results are no longer considered valid based on a timer as in Barth is different from deactivating features having an undesired fault condition to maintain other active features as recited in claim 1. Accordingly, Barth fails to cure the deficiencies of DeBettencourt as the combination of references would still fail to teach or suggest all features of claim 1.

As such, DeBettencourt and Barth fail to describe, either alone or in combination, either expressly or inherently, multiple features of claim 1 as amended herein. Applicants respectfully submit that Takagi fails to cure the above-noted deficiencies in DeBettencourt and Barth. Therefore, claim 1 is patentable over DeBettencourt in view of Barth and in further view of Takagi.

Additionally, Takagi fails to teach the use of panels of information associated with features. In contrast, Takagi teaches a method of simplifying the content of a webpage for presentation on a small screen device by dividing the webpage into a series of nodes. *See Generally Takagi.* As such, Takagi is completely distinct from the claimed embodiment of the invention. Takagi teaches the simplification of web pages based on screen size, whereas the

claimed embodiment of the invention teaches the deactivation of panels based on a fault condition. In some embodiments, the claimed embodiment of the invention teaches systems and methods for removing panels of information once a feature associated with the one or more panels becomes faulted. In contrast, Takagi teaches a method for dividing a website into nodes. *See Generally Takagi.* As such, Takagi does not teach the use of a panel of information as being associated with a feature.

Further, Takagi fails to teach the deactivation and/or removal of a node based on a fault condition. At best, Takagi teaches the deletion of blank nodes or the deletion of nodes with low significance, such as nodes with duplicate content. *See Takagi,* Column 12, lines 28-30. This is in direct contrast to the claimed embodiment of the invention, which only deactivates and/or removes features based on the detection of a fault condition.

As such, the claimed embodiment of the invention is patentable over Takagi for at least the reasons given above. Applicants respectfully submit that DeBettencourt and Barth fail to cure the above-noted deficiencies in Takagi. Therefore, claim 1 is patentable over DeBettencourt in view of Barth and in further view of Takagi. Accordingly, Applicants respectfully request the 35 U.S.C. § 103(a) rejection of claim 1 be withdrawn.

Applicants respectfully submit that claims 2-6 and 8-12 are allowable at least by virtue of their dependency from allowable claim 1. Thus, claims 2-6 and 8-12 are patentable over the DeBettencourt, Barth, and Takagi references. Therefore, withdrawal of the 35 U.S.C. § 103(a) rejection of these claims is respectfully requested.

Independent Claim 13

Independent claim 13, as amended herein, recites a method for monitoring a networked computer service for fault recovery. The method comprises receiving network status data from a network monitor monitoring a computer services network and automatically generating control commands to deactivate one or more features based on a fault condition in the network status data. The method further comprises deactivating the one or more features while maintaining active features in the set of features to continue to provide a portion of the computer networked service, the portion of the networked computer service comprising only the active features. As in claim 1, the set of features normally provide a plurality of panels of information for presentation on one or more web pages provided by the networked computer service to one or more users, each feature corresponding to one or more of the plurality of panels of information. In contrast to claim 1, however, the fault condition of claim 13 comprises unintentional performance degradation in the presentation of one or more features.

In contrast to claim 13, Barth fails to teach or suggest dynamically adjusting a set of features by deactivating a feature having a fault condition to maintain active features to continue to provide a service wherein the fault condition comprises unintentional performance degradation in the presentation of one or more features. In contrast to the invention of claim 13, Barth merely discusses a dynamic information connection engine for searching information. *See, e.g., Barth*, Abstract.

The portion of the reference cited by the Office Action discusses searching travel information and using a timer to determine when search results are considered valid. *See, e.g., id.*, ¶¶ [0112], [0113]. After the time period expires such that search results are considered no longer valid, the search results are deactivated. *Id.* Intentionally deactivating search results

when search results are no longer considered valid based on a timer as in Barth is different from deactivating features having an unintentional performance degradation to maintain other active features as recited in claim 13. In fact, Barth teaches away from a fault condition comprising unintentional performance degradation in that Barth discloses an example of a fault condition, i.e. the expiration of airline reservations, where the "fault" of expiring reservations is not only intentional, it is determined based on a pre-set amount of time that needs to run before the reservations expire. *See, e.g., id.*, ¶¶ [0112], [0113]. As such, the claimed embodiment of the invention is patentable over Barth.

Accordingly, Barth fails to cure the deficiencies of DeBettencourt as the combination of references would still fail to teach or suggest all features of claim 13.

As such, DeBettencourt and Barth fail to describe, either alone or in combination, either expressly or inherently, multiple features of claim 13 as amended herein. Applicants respectfully submit that Takagi fails to cure the above-noted deficiencies in DeBettencourt and Barth. Therefore, claim 1 is patentable over DeBettencourt in view of Barth and in further view of Takagi.

Additionally, Takagi fails to teach the use of panels of information associated with features. In contrast, Takagi teaches a method of simplifying the content of a webpage for presentation on a small screen device by dividing the webpage into a series of nodes. *See Generally Takagi.* As such, Takagi is completely distinct from the claimed embodiment of the invention. Takagi teaches the simplification of web pages based on screen size, whereas the claimed embodiment of the invention teaches the deactivation of panels based on a fault condition. In some embodiments, the claimed embodiment of the invention teaches systems and methods for removing panels of information once a feature associated with the one or more

panels becomes faulted. In contrast, Takagi teaches a method for dividing a website into nodes. *See Generally Takagi.* As such, Takagi does not teach the use of a panel of information as being associated with a feature.

Further, Takagi fails to teach the deactivation and/or removal of a node based on a fault condition. At best, Takagi teaches the deletion of blank nodes or the deletion of nodes with low significance, such as nodes with duplicate content. *See Takagi,* Column 12, lines 28-30. This is in direct contrast to the claimed embodiment of the invention, which only deactivates and/or removes features based on the detection of a fault condition.

Applicants respectfully submit that DeBettencourt fails to cure the above-noted deficiencies in Barth and Takagi. Therefore, claim 13 is patentable over DeBettencourt in view of Barth and in further view of Takagi. Accordingly, Applicants respectfully request the 35 U.S.C. § 103(a) rejection of claim 13 be withdrawn.

Applicants respectfully submit that claims 14-18 and 20-24 are allowable at least by virtue of their dependency from allowable claim 13. Thus, claims 14-18 and 20-24 are patentable over the DeBettencourt, Barth, and Takagi references. Therefore, withdrawal of the 35 U.S.C. § 103(a) rejection of these claims is respectfully requested.

Independent Claim 25

Independent claim 25, as amended herein, recites a networked computer service comprising a set of features, the networked computer service being monitored for fault management according to a method comprising receiving network status data from a network monitor monitoring a computer services network and automatically generating control commands to deactivate one or more features based on a fault condition in the network status

data. The method further comprises deactivating the one or more features while maintaining active features in the set of features to continue to provide a portion of the computer networked service, the portion of the networked computer service comprising only the active features. As in claim 1, the set of features normally provide a plurality of panels of information for presentation on one or more web pages provided by the networked computer service to one or more users, each feature corresponding to one or more of the plurality of panels of information. In contrast to claim 1, however, the fault condition of claim 25 comprises suspension of one or more features.

In contrast to claim 25, Barth fails to teach or suggest dynamically adjusting a set of features by deactivating a feature having a fault condition to maintain active features to continue to provide a service wherein the fault condition comprises suspension of one or more features. In contrast to the invention of claim 25, Barth merely discusses a dynamic information connection engine for searching information. *See, e.g., Barth*, Abstract. The portion of the reference cited by the Office Action discusses searching travel information and using a timer to determine when search results are considered valid. *See, e.g., id.*, ¶¶ [0112], [0113]. After the time period expires such that search results are considered no longer valid, the search results are deactivated. *Id.* Intentionally deactivating search results when search results are no longer considered valid based on a timer as in Barth is different from deactivating features having a suspension of one or more features to maintain other active features as recited in claim 1. Accordingly, Barth fails to cure the deficiencies of DeBettencourt as the combination of references would still fail to teach or suggest all features of claim 25.

Additionally, Takagi fails to teach the use of panels of information associated with features. In contrast, Takagi teaches a method of simplifying the content of a webpage for

presentation on a small screen device by dividing the webpage into a series of nodes. *See Generally Takagi.* As such, Takagi is completely distinct from the claimed embodiment of the invention. Takagi teaches the simplification of web pages based on screen size, whereas the claimed embodiment of the invention teaches the deactivation of panels based on a fault condition. In some embodiments, the claimed embodiment of the invention teaches systems and methods for removing panels of information once a feature associated with the one or more panels becomes faulted. In contrast, Takagi teaches a method for dividing a website into nodes. *See Generally Takagi.* As such, Takagi does not teach the use of a panel of information as being associated with a feature.

Further, Takagi fails to teach the deactivation and/or removal of a node based on a fault condition. At best, Takagi teaches the deletion of blank nodes or the deletion of nodes with low significance, such as nodes with duplicate content. *See Takagi,* Column 12, lines 28-30. This is in direct contrast to the claimed embodiment of the invention, which only deactivates and/or removes features based on the detection of a fault condition.

Applicants respectfully submit that DeBettencourt fails to cure the above-noted deficiencies in Barth and Takagi. Therefore, claim 25 is patentable over DeBettencourt in view of Barth and in further view of Takagi. Accordingly, Applicants respectfully request the 35 U.S.C. § 103(a) rejection of claim 25 be withdrawn.

Applicants respectfully submit that claims 26-30 and 32-37 are allowable at least by virtue of their dependency from allowable claim 25. Thus, claims 26-30 and 32-37 are patentable over the DeBettencourt, Barth, and Takagi references. Therefore, withdrawal of the 35 U.S.C. § 103(a) rejection of these claims is respectfully requested.

CONCLUSION

For at least the reasons stated above, claims 1-6, 8-18, 20-30 and 32-37 are now in condition for allowance. Applicants respectfully request withdrawal of the pending rejections and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned – 816-474-6550 or kadsmith@shb.com (such communication via email is herein expressly granted) – to resolve the same. It is believed that no fee is due, however, the Commissioner is hereby authorized to charge any amount required to Deposit Account No. 19-2112.

Respectfully submitted,

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